

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charis Jones	Team: Squad #7	CCRB Case #: 201809236	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 11/04/2018 12:35 PM	Location of Incident: East 42nd Street and 3rd Avenue	Precinct: 17	18 Mo. SOL 5/4/2020	EO SOL 12/19/2020	
Date/Time CV Reported Sun, 11/04/2018 3:23 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 11/04/2018 3:23 PM		
<b>Complainant/Victim</b>	<b>Type</b>	<b>Home Address</b>			
<b>Subject Officer(s)</b>	<b>Shield</b>	<b>TaxID</b>	<b>Command</b>		
1. POM Gregory Smith	14747	940747	HWY 03		
<b>Officer(s)</b>	<b>Allegation</b>			<b>Investigator Recommendation</b>	
A.POM Gregory Smith	Discourtesy: Police Officer Gregory Smith spoke discourteously to § 87(2)(b)				

### Case Summary

On November 4, 2018, Sergeant Shortell from the 17th Precinct called the CCRB to file this complaint on behalf of § 87(2)(b). On November 6, 2018, the CCRB received IAB log # 18-43336 regarding this complaint.

On November 4, 2018, at approximately 12:35 p.m., on the corner of East 42<sup>nd</sup> Street and 3<sup>rd</sup> Avenue in Manhattan, Police Officer Gregory Smith of Highway Enforcement 03, stopped § 87(2)(b) in his vehicle for disregarding pavement markings in a left turn only lane. PO Smith pulled up to § 87(2)(b)'s vehicle and told § 87(2)(b) "Fuck you, idiot" (**Allegation A: Discourtesy**, § 87(2)(g)). PO Smith issued § 87(2)(b) a summons for disregarding pavement markings (Board Review 01).

There is no video evidence regarding this incident.

### Findings and Recommendations

#### **Allegation (A) Discourtesy: Police Officer Gregory Smith spoke discourteously to § 87(2)(b)**

§ 87(2)(b) initially filed the complaint at the 17<sup>th</sup> Precinct stationhouse. § 87(2)(g) § 87(2)(b) (Board Review 03) testified that on November 4, 2018, he was in his taxi cab at a stop light in the left-turn-only lane at the intersection of 42<sup>nd</sup> Street and 3<sup>rd</sup> Avenue in Manhattan. When the light changed, § 87(2)(b) drove straight instead of turning left. PO Smith pulled up next to § 87(2)(b) on the passenger's side and asked § 87(2)(b) why he had not made the left. § 87(2)(b) responded, "I am sorry sir, I changed my mind." PO Smith then allegedly said, "Fuck you idiot" to § 87(2)(b). A block later on the corner of 42<sup>nd</sup> Street and 2<sup>nd</sup> Avenue, § 87(2)(b) stopped next to PO Smith's police vehicle and said to him, "When you curse at me I cannot curse you back because I respect you only for my son because he is a police officer." PO Smith then stopped § 87(2)(b) in his vehicle and issued him a summons. § 87(2)(b) § 87(2)(b) called 911 because he felt nervous and had a heart problem. PO Smith returned to his vehicle and waited there until the ambulance arrived. One minute after its arrival, the ambulance left the location and so did PO Smith. § 87(2)(b) was not taken to the hospital.

PO Smith (Board Review 04) testified that he was traveling eastbound on 42<sup>nd</sup> Street in the right lane when he attempted to switch into the left-turn-only lane. PO Smith first observed § 87(2)(b) in his driver's side mirror when he disregarded pavement markings while traveling at a high way rate. PO Smith pulled up next to § 87(2)(b)'s vehicle and said, "Sir, you almost hit a police car. You are supposed to make a left turn there." § 87(2)(b) responded, "Who the fuck are you to say what I did." PO Smith pulled § 87(2)(b) over and asked him for his license and registration. § 87(2)(b) screamed at PO Smith and asked him why he was being stopped. PO Smith told § 87(2)(b) that he was going to issue him a summons for disobeying pavement markings. § 87(2)(b) produced his documents for PO Smith and said, "Fuck you." PO Smith returned to his vehicle to write § 87(2)(b) a summons and observed § 87(2)(b) call 911. PO Smith observed § 87(2)(b) exit his vehicle and began to punch the side of his vehicle. After § 87(2)(b) got back into his vehicle, PO Smith approached his vehicle and gave § 87(2)(b) back his documents. § 87(2)(b) said to PO Smith, "Why did you tell me to go fuck myself?" PO Smith said, "I didn't say any of that. You are the one who told me to go fuck myself." PO Smith returned to his vehicle and waited on scene until the ambulance arrived. PO Smith did not have any further interactions with § 87(2)(b) and left the location after EMS.

§ 87(2)(g)

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 05).
- PO Smith has been a member-of-service for 13 years and has been a subject in three CCRB complaints, and seven allegations, of which one was substantiated.

CCRB Case 201507338 involved a substantiated allegation of a discourteous word against PO Smith. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A. In this complaint, the victim alleged that PO Smith used profanity involving variations of the word “fuck” during their interaction. Video footage confirmed the victim’s statement. PO Smith acknowledged using profanity during the incident and stated that it was in response to the victim cursing at him. This allegation was substantiated and PO Smith received Command Discipline A as a result (Board Review 07).

#### **Mediation, Civil and Criminal Histories**

- On November 21, 2018, this case was sent to mediation and on January 3, 2019, the case was returned to investigations as PO Smith declined to mediate.
- On January 16, 2019, a Notice of Claim FOIL request was sent to the New York City Comptroller’s Office and remains pending. It will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 7

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date